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Application Number	09/640,839
Filing Date	08/16/2000
First Named Inventor	Mark McClanahan
Art Unit	2132
Examiner Name	Benjamin E. Lanier
Attorney Docket Number	RPS920000052US1

Total Number of Pages in This Submission: 9

ENCLOSURES *(Check all that apply)*

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Firm Name	Winstead Sechrest & Minick P.C.
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Printed name	Robert A. Voigt, Jr.
Date	01/03/2006
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

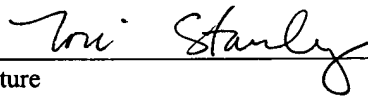|		
In re Application of:	:	Before the Examiner:
Mark G. McClanahan	:	Lanier, Benjamin E.
	:	
Serial No.: 09/640,839	:	Group Art Unit: 2132
	:	
Filing Date: August 16, 2000	:	
	:	IBM Corporation
Title: SINGLE SIGN-ON TO AN	:	P.O. Box 12195
UNDERLYING OPERATING	:	Dept. 9CCA, Bldg. 002-2
SYSTEM APPLICATION	:	Research Triangle Park, NC 27709

REPLY BRIEF UNDER 37 C.F.R. §41.41

Mail Stop Appeal Brief - Patents
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Dear Sir:

This Reply Brief is being submitted in response to the Examiner's Answer dated

November 28, 2005, with a two-month statutory period for response set to expire on

January 28, 2006.

I.   RESPONSE TO EXAMINER'S ARGUMENTS

      A.   Response to Examiner's argument that claim 9 is properly rejected under
              35 U.S.C. §112, second paragraph as discussed on pages 5-6 of
              Examiner's Answer.

The Examiner states:

Taking claim 9 for example, the claim language requires logging off a
user with a first level of access and then logging on said user with a
second level of access. This limitation renders the claims vague and
indefinite because the claim from which claim 9 depends (claim 8),
claims that a switch program switches said user to said second level of
access by modifying an underlying operating system's registry. There is
no claim limitation requiring logging on or logging off in claim 8. A
simple claim amendment to the claims specifying that the user is
switched to said second level of access would have overcome the 112
rejections. Examiner's Answer, page 6.

Appellant respectfully points out that claim 9 requires that the <u>switch user</u>
<u>program</u> logs off the user with a first level of access and that the <u>underlying operating</u>
<u>system</u> logs on the user with a second level of access. Claim 9 is not indefinite. The
scope of the claimed subject matter in claim 9 can be determined by one having ordinary
skill in the art. Appellant respectfully directs the Board's attention to at least page 10,
lines 18-30; page 12, lines 7-23 and page 14, lines 11-26 of the Specification as support
for the above-cited claimed subject matter. Consequently, the scope of the claimed
subject matter in claim 9 can be determined by one having ordinary skill in the art and
therefore is allowable under 35 U.S.C. §112, second paragraph.

      Further, claim 9 does not become indefinite because of the language in claim 8,
from which claim 9 depends from. Claim 8 recites that a switch user program switches
the user to a second level of access by modifying an underlying operating system's
registry. Claim 9 further defines this limitation by having the switch user program log off
the user with a first level of access and then having the underlying operating system log
on the user with the second level of access. As recited on page 10, lines 27-30 of the
Specification, "once the registry is modified to log on the user with a different level of

access" (as recited in claim 8), "the switch user program logs off the user and the underlying operating system logs on the user with the new level of access" (as recited in claim 9). There is nothing contradictory with having claim 9 depend from claim 8. Claim 9 is not indefinite for being dependent from claim 8. Since one having ordinary skill in the art can determine the scope of the claimed subject matter in claim 9, claim 9 is allowable under 35 U.S.C. §112, second paragraph.

      B.   <u>Response to Examiner's argument that Appellant is relying on features from the Specification to differentiate the claims from the He reference as discussed on page 6 of Examiner's Answer.</u>

The Examiner states:

> Applicant appears to be arguing for all 9 claim groupings that the He reference does not disclose an application framework and an underlying operating system to perform the claimed limitations. Applicant has not provided an explanation in the arguments of how their claimed application framework or underlying operating system differs from the He reference. Applicant appears to be relying on features from the specification to differentiate the claims from the He reference, but have failed to point out to any such features in the specification. Applicant should bear in mind that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Genus*, 988 F.2d 1181, 26 U.S.P.Q.2d 1057 (Fed. Cir. 1993). Examiner's Answer, page 6.

Appellant respectfully asserts that Appellant did not read any limitations from the specification into the claims in their Appeal Brief or in any of their responses to the Office Actions. Simply asserting that the Examiner's cited reference (He) does not disclose a particular limitation (e.g., an application framework that logs a user in the underlying operating system) is not reading a limitation from the specification into the claims. Furthermore, Appellant acknowledges that limitations from the specification are not to be read into the claims. However, <u>claims are not to be read in a vacuum and must be interpreted in light of the specification.</u> *In re Marosi*, 710 F.2d 799, 802 (Fed. Cir. 1983); M.P.E.P. §2111.01. This is to prevent the Examiner from making claim interpretations without any basis in fact and/or technical reasoning (*See Ex parte Levy*,

17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)) thereby allowing the Examiner to reach an improper claim interpretation which consequently results in the Examiner improperly rejecting the claims. Hence, this is why the courts have required the Examiner to not construe claims in a vacuum but to construe claims in light of the specification.

Further, the Examiner appears to be insisting that Appellant has the initial burden of establishing that the claims are not anticipated by a cited reference, in this case the He reference. For example, the Examiner requests that the Appellant provide explanations as to how the application framework or the underlying system of the present invention differs from the He reference. Firstly, the Examiner bears the burden of providing a reference that expressly or inherently describes each and every element as set forth in the claims. *Verdegaal Bros v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131; *See In re Oetiker*, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992). Appellant has pointed out that the cited reference, He, does not disclose particular limitations. For example, Appellant has pointed out that there is no language in He that discloses an application framework that logs a user with a first level of access in the underlying operating system. The Examiner in response seems to be asserting that He inherently discloses such a limitation without providing any basis in fact and/or technical reasoning and that Appellant has not explained why He does not disclose such a limitation. This is improper. The Examiner has the initial burden and must explain, using technical reasoning, why He discloses such a limitation. If the Examiner cannot do so, then the Examiner has not presented a *prima facie* case of anticipation. M.P.E.P. §2131.

C.   Response to Examiner's interpretation of application framework as discussed on pages 6-7 of Examiner's Answer.

The Examiner states that he interprets an application framework as being merely computer software. Examiner's Answer, page 6. While an application framework is computer software, an application framework is computer software that logs on a user

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with a first level of access in the underlying operating system, as recited in claim 1 and similarly in claims 28 and 55. The Examiner appears to suggest that element 32 discloses such a limitation. Examiner's Answer, page 6. However, He discloses that the security server (element 15) performs all the network security functions for the network and maintains the various security mechanisms (element 32) as herein described. Column 4, lines 18-20. He further discloses that the security server (element 15) provides a security platform where all user data for security are stored, updated, retrieved, processed and distributed to other nodes across the network. Column 4, lines 20-23. He further discloses that the security server (element 15) verifies the authenticity of a user, establishes mutual trust between a user and a network element, and determines the set of network elements that a user is authorized to access. Column 4, lines 23-27. He further discloses that a plurality of security mechanisms (element 32) for the network are provided and include application modules for authentication, authorization, data encryption, data integrity, user privilege control, user access auditing and central system administration and user management. Column 4, line 67 – column 5, line 5. Hence, He discloses a security server that maintains the various security mechanisms that allow the security server to verify the authenticity of a user, establish mutual trust between a user and a network element, and determine the set of network elements that a user is authorized to access. There does not appear to be any language in He that discloses that the security mechanisms log on a user with a first level of access in the underlying operating system. Thus, He does not disclose all of the limitations of claims 1, 28 and 55, and thus He does not anticipate claims 1, 28 and 55. M.P.E.P. §2131.

        D.   Response to Examiner's assertion that He inherently discloses an underlying operating system as discussed on page 7 of Examiner's Answer.

The Examiner asserts that He inherently discloses an underlying operating system. Examiner's Answer, page 7. While He may indeed disclose an operating system, claims 1, 28 and 55 recite "proving an application framework, wherein said application framework logs on a user with a first level of access in said underlying operating

system." The Examiner must not ignore claim language. All words in a claim must be considered when judging the patentability of the claim against the prior art. *See In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). The Examiner must find a reference that expressly or inherently describes each and every element as set forth in the claims. *Verdegaal Bros v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131. Since the Examiner has not provided a reference that describes each and every element of claims 1, 28 and 55, the Examiner has not provided a *prima facie* case of anticipation in rejecting claims 1, 28 and 55. M.P.E.P. §2131.

E.   <u>Response to Examiner's argument that He discloses "comparing said logon input with an application framework security database to determine level of access" as recited in claim 1 and similarly in claims 28 and 55 as discussed on page 8 of Examiner's Answer.</u>

The Examiner, in addition to the passages cited in the final office action, cites column 5, lines 11-19 of He as disclosing "comparing said logon input with an application framework security database to determine level of access" as recited in claim 1 and similarly in claims 28 and 55. Examiner's Answer, page 8. Appellant respectfully traverses and asserts that He instead discloses that the user information (user identifier and password) will be checked against the information in the user profile of the central security database at the security server. Column 5, lines 9-11. He further discloses that the network establishes mutual trust between an authenticated user and a specific network element the user requests to access. Column 5, lines 11-13. He further discloses that the network authentication (element 50) also assures the user that the correct network element is accessed. Column 5, lines 13-15. He further discloses that for the authorization module (element 52), the network determines the set of network elements an authenticated user can access. Column 5, lines 16-17. He further discloses that the access list is established based on the privilege of the user and is provided to the user once the authentication is passed. Column 5, lines 18-20. Hence, He discloses receiving a user identifier and a password from the user (element 12 in Figure 1). He further discloses checking the user identifier and the password received from the user against the

information contained in the user profile. In this manner, the network authentication (element 50) assures that the correct network element is accessed. That is, the network authentication (element 50) assures that the user is authorized to access the specific network element requested by the user. This is not the same as comparing logon input with an application framework security database to determine the level of access.

F.   Other matters raised by the Examiner.

All other matters raised by the Examiner have been adequately addressed above and in Appellant's Appeal Brief and therefore will not be addressed herein for the sake of brevity.

II.   CONCLUSION

For the reasons stated above and in Appellant's Appeal Brief, Appellant respectfully asserts that the rejections of claims 1-81 are in error. Appellant respectfully requests reversal of the rejections and allowance of claims 1-81.

Respectfully submitted,

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